

FIRST REGULAR SESSION

SENATE BILL NO. 94

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR MUNZLINGER.

Read 1st time January 12, 2011, and ordered printed.

TERRY L. SPIELER, Secretary.

0653S.011

AN ACT

To repeal sections 30.750, 30.753, 30.756, 30.758, 30.760, 30.765, and 260.035, RSMo, and to enact in lieu thereof eight new sections relating to financing for energy efficiency improvements, with existing penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 30.750, 30.753, 30.756, 30.758, 30.760, 30.765, and 260.035, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 30.750, 30.753, 30.756, 30.758, 30.760, 30.765, 30.865, and 260.035, to read as follows:

30.750. As used in sections 30.750 to 30.767, the following terms mean:

(1) "Eligible agribusiness", a person engaged in the processing or adding of value to agricultural products produced in Missouri;

(2) "Eligible alternative energy consumer", an individual who wishes to borrow moneys for the purchase, installation, or construction of facilities or equipment related to the production of fuel or power primarily for **[their] the individual's** own use from energy sources other than fossil fuels, including but not limited to solar, hydroelectric, wind, and qualified biomass;

(3) "Eligible alternative energy operation", a business enterprise engaged in the production of fuel or power from energy sources other than fossil fuels, including but not limited to solar, hydroelectric, wind, and qualified biomass. Such business enterprise shall conform to the characteristics of paragraphs (a), (b), and (d) of subdivision (6) of this section;

(4) "Eligible beginning farmer":

(a) For any beginning farmer who seeks to participate in the linked deposit program alone, a farmer who:

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

17 a. Is a Missouri resident;
18 b. Wishes to borrow for a farm operation located in Missouri;
19 c. Is at least eighteen years old; and
20 d. In the preceding five years has not owned, either directly or indirectly,
21 farm land greater than fifty percent of the average size farm in the county where
22 the proposed farm operation is located or farm land with an appraised value
23 greater than four hundred fifty thousand dollars. A farmer who qualifies as an
24 eligible farmer under this provision may utilize the proceeds of a linked deposit
25 loan to purchase agricultural land, farm buildings, new and used farm equipment,
26 livestock and working capital;

27 (b) For any beginning farmer who is participating in both the linked
28 deposit program and the beginning farmer loan program administered by the
29 Missouri agriculture and small business development authority, a farmer who:

30 a. Qualifies under the definition of a beginning farmer utilized for
31 eligibility for federal tax-exempt financing, including the limitations on the use
32 of loan proceeds; and

33 b. Meets all other requirements established by the Missouri agriculture
34 and small business development authority;

35 (5) **"Eligible energy-saving enterprise", a borrower qualified**
36 **under section 30.865 to apply for a reduced-rate loan under sections**
37 **30.750 to 30.767;**

38 (6) "Eligible facility borrower", a borrower qualified under section 30.860
39 to apply for a reduced-rate loan under sections 30.750 to 30.767;

40 [(6)] (7) "Eligible farming operation", any person engaged in farming in
41 an authorized farm corporation, family farm, or family farm corporation as
42 defined in section 350.010 that has all of the following characteristics:

43 (a) Is headquartered in this state;

44 (b) Maintains offices, operating facilities, or farming operations and
45 transacts business in this state;

46 (c) Employs less than ten employees;

47 (d) Is organized for profit;

48 [(7)] (8) "Eligible governmental entity", any political subdivision of the
49 state seeking to finance capital improvements, capital outlay, or other significant
50 programs through an eligible lending institution;

51 [(8)] (9) "Eligible higher education institution", any approved public or
52 private institution as defined in section 173.205;

53 [(9)] (10) "Eligible job enhancement business", a new, existing, or
54 expanding firm operating in Missouri, or as a condition of accepting the linked
55 deposit, will locate a facility or office in Missouri associated with said linked
56 deposit, which employs ten or more employees in Missouri on a yearly average
57 and which, as nearly as possible, is able to establish or retain at least one job in
58 Missouri for each fifty thousand dollars received from a linked deposit loan except
59 when the applicant can demonstrate significant costs for equipment, capital
60 outlay, or capital improvements associated with the physical expansion,
61 renovation, or modernization of a facility or equipment. In such cases, the
62 maximum amount of the linked deposit shall not exceed fifty thousand dollars per
63 job created or retained plus the initial cost of the physical expansion, renovation
64 or capital outlay;

65 [(10)] (11) "Eligible lending institution", a financial institution that is
66 eligible to make commercial or agricultural or student loans or discount or
67 purchase such loans, is a public depository of state funds or obtains its funds
68 through the issuance of obligations, either directly or through a related entity,
69 eligible for the placement of state funds under the provisions of section 15, article
70 IV, Constitution of Missouri, and agrees to participate in the linked deposit
71 program;

72 [(11)] (12) "Eligible livestock operation", any person engaged in
73 production of livestock or poultry in an authorized farm corporation, family farm,
74 or family farm corporation as defined in section 350.010;

75 [(12)] (13) "Eligible locally owned business", any person seeking to
76 establish a new firm, partnership, cooperative company, or corporation that shall
77 retain at least fifty-one percent ownership by residents in a county in which the
78 business is headquartered, that consists of the following characteristics:

79 (a) The county has a median population of twelve thousand five hundred
80 or less; and

81 (b) The median income of residents in the county are equal to or less than
82 the state median income; or

83 (c) The unemployment rate of the county is equal to or greater than the
84 state's unemployment rate;

85 [(13)] (14) "Eligible marketing enterprise", a business enterprise
86 operating in this state which is in the process of marketing its goods, products or
87 services within or outside of this state or overseas, which marketing is designed
88 to increase manufacturing, transportation, mining, communications, or other

89 enterprises in this state, which has proposed its marketing plan and strategy to
90 the department of economic development and which plan and strategy has been
91 approved by the department for purposes of eligibility pursuant to sections 30.750
92 to 30.767. Such business enterprise shall conform to the characteristics of
93 paragraphs (a), (b) and (d) of subdivision (6) of this section and also employ less
94 than twenty-five employees;

95 ~~[(14)]~~ **(15)** "Eligible multitenant development enterprise", a new
96 enterprise that develops multitenant space for targeted industries as determined
97 by the department of economic development and approved by the department for
98 the purposes of eligibility pursuant to sections 30.750 to 30.767;

99 ~~[(15)]~~ **(16)** "Eligible residential property developer", an individual who
100 purchases and develops a residential structure of either two or four units, if such
101 residential property developer uses and agrees to continue to use, for at least the
102 five years immediately following the date of issuance of the linked deposit loan,
103 one of the units as his principal residence or if such person's principal residence
104 is located within one-half mile from the developed structure and such person
105 agrees to maintain the principal residence within one-half mile of the developed
106 structure for at least the five years immediately following the date of issuance of
107 the linked deposit loan;

108 ~~[(16)]~~ **(17)** "Eligible residential property owner", a person, firm or
109 corporation who purchases, develops or rehabilitates a multifamily residential
110 structure;

111 ~~[(17)]~~ **(18)** "Eligible small business", a person engaged in an activity with
112 the purpose of obtaining, directly or indirectly, a gain, benefit or advantage and
113 which conforms to the characteristics of paragraphs (a), (b) and (d) of subdivision
114 (6) of this section, and also employs less than one hundred employees;

115 ~~[(18)]~~ **(19)** "Eligible student borrower", any person attending, or the
116 parent of a dependent undergraduate attending, an eligible higher education
117 institution in Missouri who may or may not qualify for need-based student
118 financial aid calculated by the federal analysis called Congressional Methodology
119 Formula pursuant to 20 U.S.C. 1078, as amended (the Higher Education
120 Amendments of 1986);

121 ~~[(19)]~~ **(20)** "Eligible water supply system", a water system which serves
122 fewer than fifty thousand persons and which is owned and operated by:

- 123 (a) A public water supply district established pursuant to chapter 247; or
124 (b) A municipality or other political subdivision; or

125 (c) A water corporation; and which is certified by the department of
126 natural resources in accordance with its rules and regulations to have suffered
127 a significant decrease in its capacity to meet its service needs as a result of
128 drought;

129 [(20)] (21) "Farming", using or cultivating land for the production of
130 agricultural crops, livestock or livestock products, forest products, poultry or
131 poultry products, milk or dairy products, or fruit or other horticultural products;

132 [(21)] (22) "Linked deposit", a certificate of deposit, or in the case of
133 production credit associations, the subscription or purchase outright of obligations
134 described in section 15, article IV, Constitution of Missouri, placed by the state
135 treasurer with an eligible lending institution at rates otherwise provided by law
136 in section 30.758, provided the institution agrees to lend the value of such
137 deposit, according to the deposit agreement provided in sections 30.750 to 30.767,
138 to eligible multitenant development enterprises, eligible small businesses, eligible
139 alternative energy operations, eligible alternative energy consumers, eligible
140 locally owned businesses, farming operations, eligible job enhancement
141 businesses, eligible marketing enterprises, eligible residential property
142 developers, eligible residential property owners, eligible governmental entities,
143 eligible agribusinesses, eligible beginning farmers, eligible livestock operations,
144 eligible student borrowers, eligible facility borrowers, **eligible energy-saving**
145 **enterprises**, or eligible water supply systems at below the present borrowing
146 rate applicable to each multitenant development enterprise, small business,
147 alternative energy operation, alternative energy consumer, farming operation,
148 eligible job enhancement business, eligible marketing enterprise, eligible
149 residential property developer, eligible residential property owner, eligible
150 governmental entity, eligible agribusiness, eligible beginning farmer, eligible
151 livestock operation, eligible student borrower, **eligible energy-saving**
152 **enterprise**, or supply system at the time of the deposit of state funds in the
153 institution;

154 [(22)] (23) "Market rate", the interest rate more specifically described in
155 subsection 6 of section 30.260;

156 [(23)] (24) "Professional forester", any individual who holds a bachelor
157 of science degree in forestry from a regionally accredited college or university
158 with a minimum of two years of professional forest management experience;

159 [(24)] (25) "Qualified biomass", any agriculture-derived organic material
160 or any wood-derived organic material harvested in accordance with a site-specific

161 forest management plan focused on long-term forest sustainability developed by
162 a professional forester and qualified, in consultation with the conservation
163 commission, by the agriculture and small business development authority;

164 [(25)] (26) "Water corporation", as such term is defined in section
165 386.020;

166 [(26)] (27) "Water system", as such term is defined in section 386.020.

30.753. 1. The state treasurer may invest in linked deposits; however, the
2 total amount so deposited at any one time shall not exceed, in the aggregate,
3 seven hundred twenty million dollars. No more than three hundred thirty million
4 dollars of the aggregate deposit shall be used for linked deposits to eligible
5 farming operations, eligible locally owned businesses, eligible agribusinesses,
6 eligible beginning farmers, eligible livestock operations, and eligible facility
7 borrowers, no more than one hundred ten million of the aggregate deposit shall
8 be used for linked deposits to small businesses, no more than twenty million
9 dollars shall be used for linked deposits to eligible multitenant development
10 enterprises, and no more than twenty million dollars of the aggregate deposit
11 shall be used for linked deposits to eligible residential property developers and
12 eligible residential property owners, no more than two hundred twenty million
13 dollars of the aggregate deposit shall be used for linked deposits to eligible job
14 enhancement businesses and no more than twenty million dollars of the aggregate
15 deposit shall be used for linked deposit loans to eligible water systems. Linked
16 deposit loans may be made to eligible student borrowers, eligible alternative
17 energy operations, eligible alternative energy consumers, **eligible energy-**
18 **saving enterprises**, and eligible governmental entities from the aggregate
19 deposit. If demand for a particular type of linked deposit exceeds the initial
20 allocation, and funds initially allocated to another type are available and not in
21 demand, the state treasurer may commingle allocations among the types of linked
22 deposits.

23 2. The minimum deposit to be made by the state treasurer to an eligible
24 lending institution for eligible job enhancement business loans shall be ninety
25 thousand dollars. Linked deposit loans for eligible job enhancement businesses
26 may be made for the purposes of assisting with relocation expenses, working
27 capital, interim construction, inventory, site development, machinery and
28 equipment, or other expenses necessary to create or retain jobs in the recipient
29 firm.

30.756. 1. An eligible lending institution that desires to receive a linked

2 deposit shall accept and review applications for linked deposit loans from eligible
3 multitenant enterprises, eligible farming operations, eligible alternative energy
4 consumers, eligible alternative energy operations, eligible locally owned
5 businesses, eligible small businesses, eligible job enhancement businesses,
6 eligible marketing enterprises, eligible agribusinesses, eligible beginning farmers,
7 eligible livestock operations, eligible residential property developers, eligible
8 residential property owners, eligible governmental entities, eligible student
9 borrowers, eligible facility borrowers, **eligible energy-saving enterprises**, and
10 eligible water supply systems. An eligible residential property owner shall certify
11 on his or her loan application that the reduced rate loan will be used exclusively
12 to purchase, develop or rehabilitate a multifamily residential property. The
13 lending institution shall apply all usual lending standards to determine the
14 creditworthiness of each eligible multitenant enterprise, eligible farming
15 operation, eligible alternative energy operation, eligible alternative energy
16 consumer, eligible locally owned business, eligible small business, eligible job
17 enhancement business, eligible marketing enterprise, eligible residential property
18 developer, eligible residential property owner, eligible governmental [entities]
19 **entity**, eligible agribusiness, eligible beginning farmer, eligible livestock
20 operation, eligible student borrower, eligible facility borrower, **eligible energy-**
21 **saving enterprise**, or eligible water supply system. No linked deposit loan
22 made to any eligible multitenant development enterprise, eligible farming
23 operation, eligible alternative energy operation, eligible alternative energy
24 consumer, eligible locally owned business, eligible livestock operation, eligible
25 agribusiness, eligible beginning farmer, eligible job enhancement business,
26 eligible marketing enterprise, eligible residential property developer, eligible
27 residential property owner, eligible governmental entity, eligible student
28 borrower, eligible water supply system, **eligible energy-saving enterprise**, or
29 eligible small business shall exceed a dollar limit determined by the state
30 treasurer in the state treasurer's best judgment, except as otherwise limited. Any
31 link deposit loan made to an eligible facility borrower **or eligible energy-**
32 **saving enterprise** shall be in accordance with the loan amount and loan term
33 requirements in [section] **sections 30.860 and 30.865, respectively.**

34 2. An eligible farming operation, small business or job enhancement
35 business shall certify on its loan application that the reduced rate loan will be
36 used exclusively for necessary production expenses or the expenses listed in
37 subsection 2 of section 30.753 or the refinancing of an existing loan for production

38 expenses or the expenses listed in subsection 2 of section 30.753 of an eligible
39 farming operation, small business or job enhancement business. Whoever
40 knowingly makes a false statement concerning such application is guilty of a class
41 A misdemeanor. An eligible water supply system shall certify on its loan
42 application that the reduced rate loan shall be used exclusively to pay the costs
43 of upgrading or repairing an existing water system, constructing a new water
44 system, or making other capital improvements to a water system which are
45 necessary to improve the service capacity of the system.

46 3. In considering which eligible farming operations should receive
47 reduced-rate loans, the eligible lending institution shall give priority to those
48 farming operations which have suffered reduced yields due to drought or other
49 natural disasters and for which the receipt of a reduced-rate loan will make a
50 significant contribution to the continued operation of the recipient farming
51 operation.

52 4. The eligible financial institution shall forward to the state treasurer a
53 linked deposit loan package, in the form and manner as prescribed by the state
54 treasurer. The package shall include such information as required by the state
55 treasurer, including the amount of each loan requested.

56 The institution shall certify that each applicant is an eligible multitenant
57 development enterprise, eligible farming operation, eligible alternative energy
58 operation, eligible alternative energy consumer, eligible locally owned business,
59 eligible small business, eligible job enhancement business, eligible marketing
60 enterprise, eligible residential property developer, eligible residential property
61 owner, eligible governmental entity, eligible agribusiness, eligible beginning
62 farmer, eligible livestock operation, eligible student borrower, eligible facility
63 borrower, **eligible energy-saving enterprise**, or eligible water supply system,
64 and shall, for each eligible multitenant development enterprise, eligible farming
65 operation, eligible alternative energy operation, eligible alternative energy
66 consumer, eligible small business, eligible job enhancement business, eligible
67 marketing enterprise, eligible residential property developer, eligible residential
68 property owner, eligible governmental entity, eligible agribusiness, eligible
69 beginning farmer, eligible livestock operation, eligible student borrower, eligible
70 facility borrower, **eligible energy-saving enterprise**, or eligible water supply
71 system, certify the present borrowing rate applicable.

72 5. The eligible lending institution shall be responsible for determining if
73 a student borrower is an eligible student borrower. A student borrower shall be

74 eligible for an initial or renewal reduced-rate loan only if, at the time of the
75 application for the loan, the student is a citizen or permanent resident of the
76 United States, a resident of the state of Missouri as defined by the coordinating
77 board for higher education, is enrolled or has been accepted for enrollment in an
78 eligible higher education institution, and establishes that the student has
79 financial need. In considering which eligible student borrowers may receive
80 reduced-rate loans, the eligible lending institution may give priority to those
81 eligible student borrowers whose income, or whose family income, if the eligible
82 student borrower is a dependent, is such that the eligible student borrower does
83 not qualify for need-based student financial aid pursuant to 20 U.S.C. 1078, as
84 amended (the Higher Education Amendments of 1986). The eligible lending
85 institution shall require the eligible student borrower to document that the
86 student has applied for and has obtained all need-based student financial aid for
87 which the student is eligible prior to application for a reduced-rate loan pursuant
88 to this section. In no case shall the combination of all financial aid awarded to
89 any student in any particular enrollment period exceed the total cost of
90 attendance at the institution in which the student is enrolled. No eligible lending
91 institution shall charge any additional fees, including but not limited to an
92 origination, service or insurance fee on any loan agreement under the provisions
93 of sections 30.750 to 30.765.

94 6. The eligible lending institution making an initial loan to an eligible
95 student borrower may make a renewal loan or loans to the student. The total of
96 such reduced-rate loans from eligible lending institutions made pursuant to this
97 section to any individual student shall not exceed the cumulative totals
98 established by 20 U.S.C. 1078, as amended. An eligible student borrower shall
99 certify on his or her loan application that the reduced-rate loan shall be used
100 exclusively to pay the costs of tuition, incidental fees, books and academic
101 supplies, room and board and other fees directly related to enrollment in an
102 eligible higher education institution. The eligible lending institution shall make
103 the loan payable to the eligible student borrower and the eligible higher
104 education institution as co-payees. The method of repayment of the loan shall be
105 the same as for repayment of loans made pursuant to sections 173.095 to 173.186.

106 7. Beginning August 28, 2005, in considering which eligible multitenant
107 enterprise, eligible farming operation, eligible alternative energy operation,
108 eligible alternative energy consumer, eligible locally owned business, eligible
109 small business, eligible job enhancement business, eligible marketing enterprise,

110 eligible residential property developer, eligible residential property owner, eligible
111 governmental entity, eligible agribusiness, eligible beginning farmer, eligible
112 livestock operation, eligible student borrower, eligible facility borrower, **eligible**
113 **energy-saving enterprise**, or eligible water supply system should receive
114 reduced-rate loans, the eligible lending institution shall give priority to an
115 eligible multitenant enterprise, eligible farming operation, eligible alternative
116 energy operation, eligible alternative energy consumer, eligible locally owned
117 business, eligible small business, eligible job enhancement business, eligible
118 marketing enterprise, eligible residential property developer, eligible residential
119 property owner, eligible governmental entity, eligible agribusiness, eligible
120 beginning farmer, eligible livestock operation, eligible student borrower, eligible
121 facility borrower, **eligible energy-saving enterprise**, or eligible water supply
122 system that has not previously received a reduced-rate loan through the linked
123 deposit program. However, nothing shall prohibit an eligible lending institution
124 from making a reduced-rate loan to any entity that previously has received such
125 a loan, if such entity otherwise qualifies for such a reduced-rate loan.

30.758. 1. The state treasurer may accept or reject a linked deposit loan
2 package or any portion thereof.

3 2. The state treasurer shall make a good faith effort to ensure that the
4 linked deposits are placed with eligible lending institutions to make linked
5 deposit loans to minority- or female-owned eligible multitenant enterprises,
6 eligible farming operations, eligible alternative energy operations, eligible
7 alternative energy consumers, eligible locally owned businesses, eligible small
8 businesses, eligible job enhancement businesses, eligible marketing enterprises,
9 eligible residential property developers, eligible residential property owners,
10 eligible governmental entities, eligible agribusinesses, eligible beginning farmers,
11 eligible livestock operations, eligible student borrowers, eligible facility borrowers,
12 **eligible energy-saving enterprises**, or eligible water supply systems. Results
13 of such effort shall be included in the linked deposit review committee's annual
14 report to the governor.

15 3. Upon acceptance of the linked deposit loan package or any portion
16 thereof, the state treasurer may place linked deposits with the eligible lending
17 institution as follows: when market rates are five percent or above, the state
18 treasurer shall reduce the market rate by up to three percentage points to obtain
19 the linked deposit rate; when market rates are less than five percent, the state
20 treasurer shall reduce the market rate by up to sixty percent to obtain the linked

21 deposit rate. All linked deposit rates are determined and calculated by the state
22 treasurer. When necessary, the treasurer may place linked deposits prior to
23 acceptance of a linked deposit loan package.

24 4. The eligible lending institution shall enter into a deposit agreement
25 with the state treasurer, which shall include requirements necessary to carry out
26 the purposes of sections 30.750 to 30.767. The deposit agreement shall specify
27 the length of time for which the lending institution will lend funds upon receiving
28 a linked deposit, and the original deposit plus renewals shall not exceed five
29 years, except as otherwise provided in this chapter. The agreement shall also
30 include provisions for the linked deposit of a linked deposit for an eligible facility
31 borrower, eligible multitenant enterprise, eligible farming operation, eligible
32 alternative energy operation, eligible alternative energy consumer, eligible locally
33 owned business, eligible small business, eligible marketing enterprise, eligible
34 residential property developer, eligible residential property owner, eligible
35 governmental entity, eligible agribusiness, eligible beginning farmer, eligible
36 livestock operation, eligible student borrower, **eligible energy-saving**
37 **enterprise**, or job enhancement business. Interest shall be paid at the times
38 determined by the state treasurer.

39 5. The period of time for which such linked deposit is placed with an
40 eligible lending institution shall be neither longer nor shorter than the period of
41 time for which the linked deposit is used to provide loans at reduced interest
42 rates. The agreement shall further provide that the state shall receive market
43 interest rates on any linked deposit or any portion thereof for any period of time
44 for which there is no corresponding linked deposit loan outstanding to an eligible
45 multitenant enterprise, eligible farming operation, eligible alternative energy
46 operation, eligible alternative energy consumer, eligible locally owned business,
47 eligible small business, eligible job enhancement business, eligible marketing
48 enterprise, eligible residential property developer, eligible residential property
49 owner, eligible governmental entity, eligible agribusiness, eligible beginning
50 farmer, eligible livestock operation, eligible student borrower, eligible facility
51 borrower, **eligible energy-saving enterprise**, or eligible water supply system,
52 except as otherwise provided in this subsection. Within thirty days after the
53 annual anniversary date of the linked deposit, the eligible lending institution
54 shall repay the state treasurer any linked deposit principal received from
55 borrowers in the previous yearly period and thereafter repay such principal
56 within thirty days of the yearly anniversary date calculated separately for each

57 linked deposit loan, and repaid at the linked deposit rate. Such principal
58 payment shall be accelerated when more than thirty percent of the linked deposit
59 loan is repaid within a single monthly period. Any principal received and not
60 repaid, up to the point of the thirty percent or more payment, shall be repaid
61 within thirty days of that payment at the linked deposit rate. Finally, when the
62 linked deposit is tied to a revolving line of credit agreement between the banking
63 institution and its borrower, the full amount of the line of credit shall be excluded
64 from the repayment provisions of this subsection.

30.760. 1. Upon the placement of a linked deposit with an eligible lending
2 institution, such institution is required to lend such funds to each approved
3 eligible multitenant enterprise, eligible farm operation, eligible alternative energy
4 operation, eligible alternative energy consumer, eligible locally owned business,
5 eligible small business, eligible job enhancement business, eligible marketing
6 enterprise, eligible residential property developer, eligible residential property
7 owner, eligible governmental entity, eligible agribusiness, eligible beginning
8 farmer, eligible livestock operation, eligible student borrower, eligible facility
9 borrower, **eligible energy-saving enterprise**, or eligible water supply system
10 listed in the linked deposit loan package required by section 30.756 and in
11 accordance with the deposit agreement required by section 30.758. The loan shall
12 be at a fixed rate of interest reduced by the amount established under subsection
13 3 of section 30.758 to each eligible multitenant enterprise, eligible farming
14 operation, eligible alternative energy operation, eligible alternative energy
15 consumer, eligible locally owned business, eligible small business, eligible job
16 enhancement business, eligible marketing enterprise, eligible residential property
17 developer, eligible residential property owner, eligible governmental entity,
18 eligible agribusiness, eligible beginning farmer, eligible livestock operation,
19 eligible student borrower, eligible facility borrower, **eligible energy-saving**
20 **enterprise**, or eligible water supply system as determined pursuant to rules and
21 regulations promulgated by the state treasurer under the provisions of chapter
22 536, including emergency rules issued pursuant to section 536.025. In addition,
23 the loan agreement shall specify that the eligible multitenant enterprise, eligible
24 farming operation, eligible alternative energy operation, eligible alternative
25 energy consumer, eligible locally owned business, eligible small business, eligible
26 job enhancement business, eligible marketing enterprise, eligible residential
27 property developer, eligible residential property owner, eligible governmental
28 entity, eligible agribusiness, eligible beginning farmer, eligible livestock

29 operation, eligible student borrower, eligible facility borrower, **eligible energy-**
30 **saving enterprise**, or eligible water supply system shall use the proceeds as
31 required by sections 30.750 to 30.765, and that in the event the loan recipient
32 does not use the proceeds in the manner prescribed by sections 30.750 to 30.765,
33 the remaining proceeds shall be immediately returned to the lending institution
34 and that any proceeds used by the loan recipient shall be repaid to the lending
35 institution as soon as practicable. All records and documents pertaining to the
36 programs established by sections 30.750 to 30.765 shall be segregated by the
37 lending institution for ease of identification and examination. A certification of
38 compliance with this section in the form and manner as prescribed by the state
39 treasurer shall be required of the eligible lending institution. Any lender or
40 lending officer of an eligible lending institution who knowingly violates the
41 provisions of sections 30.750 to 30.765 is guilty of a class A misdemeanor.

42 2. The state treasurer shall take any and all steps necessary to implement
43 the linked deposit program and monitor compliance of eligible multitenant
44 enterprises, eligible lending institutions, eligible farming operations, eligible
45 alternative energy operations, eligible alternative energy consumers, eligible
46 locally owned businesses, eligible small businesses, eligible job enhancement
47 businesses, eligible marketing enterprises, eligible residential property
48 developers, eligible residential property owners, eligible governmental entities,
49 eligible agribusinesses, eligible beginning farmers, eligible livestock operations,
50 eligible facility borrowers, **eligible energy-saving enterprises**, or eligible
51 water supply systems.

30.765. The state and the state treasurer are not liable to any eligible
2 lending institution in any manner for payment of the principal or interest on the
3 loan to an eligible multitenant enterprise, eligible farm operation, eligible
4 alternative energy operation, eligible alternative energy consumer, eligible locally
5 owned business, eligible small business, eligible job enhancement business,
6 eligible marketing enterprise, eligible residential property developer, eligible
7 residential property owner, eligible governmental entity, eligible agribusiness,
8 eligible beginning farmer, eligible livestock operation, eligible student borrower,
9 eligible facility borrower, **eligible energy-saving enterprise**, or eligible water
10 supply system. Any delay in payments or default on the part of an eligible
11 multitenant enterprise, eligible farming operation, eligible alternative energy
12 operation, eligible alternative energy consumer, eligible locally owned business,
13 eligible small business, eligible job enhancement business, eligible marketing

14 enterprise, eligible residential property developer, eligible residential property
15 owner, eligible governmental entity, eligible agribusiness, eligible beginning
16 farmer, eligible livestock operation, eligible student borrower, eligible facility
17 borrower, **eligible energy-saving enterprise**, or eligible water supply system
18 does not in any manner affect the deposit agreement between the eligible lending
19 institution and the state treasurer.

30.865. 1. As used in this section, the following terms mean:

2 (1) "Authority", the environmental improvement and energy
3 resources authority created under sections 260.005 to 260.125;

4 (2) "Borrower", any individual, partnership, corporation,
5 cooperative, or limited liability company organized or incorporated
6 under the laws of this state and conducting business in this state;

7 (3) "Eligible energy-saving enterprise", a borrower that seeks to
8 install or implement energy improvements to the business;

9 (4) "Energy audit", an inspection conducted by a qualified energy
10 auditor for the purpose of providing energy efficiency
11 recommendations, that, if implemented, will result in reduced energy
12 use or reduced energy costs;

13 (5) "Energy improvement", any physical alteration made to a
14 building or structure or measure taken for the purpose of reducing
15 energy consumption by such building or structure or reducing the costs
16 of energy for such building or structure.

17 2. The authority shall accept applications and issue certifications
18 of qualification as an eligible energy-saving enterprise to borrowers for
19 purposes of applying for reduced-rate loans under sections 30.750 to
20 30.767 to finance new costs or refinance existing debt associated with
21 energy improvements. The authority may charge for each certificate
22 of qualification a one-time fee in an amount not to exceed the actual
23 cost of issuance of the certificate.

24 3. In determining whether a borrower qualifies as an eligible
25 energy-saving enterprise, the authority shall consider the following
26 factors:

27 (1) The borrower's ability to repay the loan;

28 (2) The general economic conditions of the area where the
29 energy improvement project will take place;

30 (3) The results of an energy audit and the potential for energy
31 savings associated with the project for which the loan is sought;

32 **(4) Such other factors as the authority may establish by rule.**

33 **4. No reduced-rate loan made to an eligible energy-saving**
34 **enterprise under sections 30.750 to 30.767 shall:**

35 **(1) Exceed two hundred thousand for any single eligible energy-**
36 **saving enterprise; or**

37 **(2) Exceed a loan term of five years, except that such loan may**
38 **be extended up to one additional loan period of five years for a**
39 **maximum total loan term of ten years.**

40 **5. When a banking institution or an eligible lending institution**
41 **extends credit under the provisions of this section and provides the**
42 **lead in underwriting the credit, it may enter into a participation**
43 **agreement, sell part of the loan to third parties, syndicate the loan, or**
44 **make other written arrangement with financial intermediaries,**
45 **provided that at all times any financial intermediary, participant,**
46 **purchaser, or other party obtaining a legal or equitable interest in the**
47 **loan otherwise qualifies for linked deposit loans and fully collateralizes**
48 **those loans as required by this chapter.**

49 **6. The state treasurer may contract with other parties as**
50 **permitted in section 30.286 and consult with the authority to implement**
51 **this section. However, the state treasurer shall make the final**
52 **determination on the placement of linked deposits of state funds in**
53 **banking institutions or eligible lending institutions as permitted by the**
54 **constitution.**

55 **7. Any rule or portion of a rule, as that term is defined in section**
56 **536.010 that is created under the authority delegated in this section**
57 **shall become effective only if it complies with and is subject to all of**
58 **the provisions of chapter 536, and, if applicable, section 536.028. This**
59 **section and chapter 536 are nonseverable and if any of the powers**
60 **vested with the general assembly pursuant to chapter 536, to review, to**
61 **delay the effective date, or to disapprove and annul a rule are**
62 **subsequently held unconstitutional, then the grant of rulemaking**
63 **authority and any rule proposed or adopted after August 28, 2011, shall**
64 **be invalid and void.**

260.035. 1. The authority is hereby granted and may exercise all powers
2 necessary or appropriate to carry out and effectuate its purposes pursuant to the
3 provisions of sections 260.005 to 260.125, including, but not limited to, the
4 following:

- 5 (1) To adopt bylaws and rules after having held public hearings thereon
6 for the regulation of its affairs and the conduct of its business;
- 7 (2) To adopt an official seal;
- 8 (3) To maintain a principal office and such other offices within the state
9 as it may designate;
- 10 (4) To sue and be sued;
- 11 (5) To make and execute leases, contracts, releases, compromises and
12 other instruments necessary or convenient for the exercise of its powers or to
13 carry out its purposes;
- 14 (6) To acquire, construct, reconstruct, enlarge, improve, furnish, equip,
15 maintain, repair, operate, lease, finance and sell equipment, structures, systems
16 and projects and to lease the same to any private person, firm, or corporation, or
17 to any public body, political subdivision or municipal corporation. Any such lease
18 may provide for the construction of the project by the lessee;
- 19 (7) To issue bonds and notes as hereinafter provided and to make,
20 purchase, or participate in the purchase of loans or municipal obligations and to
21 guarantee loans to finance the acquisition, construction, reconstruction,
22 enlargement, improvement, furnishing, equipping, maintaining, repairing,
23 operating or leasing of a project;
- 24 (8) To invest any funds not required for immediate disbursement in
25 obligations of the state of Missouri or of the United States or any agency or
26 instrumentality thereof, or in bank certificates of deposit; provided, however, the
27 foregoing limitations on investments shall not apply to proceeds acquired from
28 the sale of bonds or notes which are held by a corporate trustee pursuant to
29 section 260.060;
- 30 (9) To acquire by gift or purchase, hold and dispose of real and personal
31 property in the exercise of its powers and the performance of its duties hereunder;
- 32 (10) To employ managers and other employees and retain or contract with
33 architects, engineers, accountants, financial consultants, attorneys and such other
34 persons, firms or corporations who are necessary in its judgment to carry out its
35 duties, and to fix the compensation thereof;
- 36 (11) To receive and accept appropriations, bequests, gifts and grants and
37 to utilize or dispose of the same to carry out its purposes pursuant to the
38 provisions of sections 260.005 to 260.125;
- 39 (12) To engage in research and development with respect to pollution
40 control facilities and solid waste or sewage disposal facilities, and water facilities,

41 resource recovery facilities and the development of energy resources;

42 (13) To collect rentals, fees and other charges in connection with its
43 services or for the use of any project hereunder;

44 (14) To sell at private sale any of its property or projects to any private
45 person, firm or corporation, or to any public body, political subdivision or
46 municipal corporation on such terms as it deems advisable, including the right
47 to receive for such sale the note or notes of any such person to whom the sale is
48 made. Any such sale shall provide for payments adequate to pay the principal
49 of and interest and premiums, if any, on the bonds or notes issued to finance such
50 project or portion thereof. Any such sale may provide for the construction of the
51 project by the purchaser of the project;

52 (15) To make, purchase or participate in the purchase of loans to finance
53 the development and marketing of:

54 (a) Means of energy production utilizing energy sources other than fossil
55 or nuclear fuel, including, but not limited to, wind, water, solar, biomass, solid
56 waste, and other renewable energy resource technologies;

57 (b) Fossil fuels and recycled fossil fuels which are indigenous energy
58 resources produced in the state of Missouri, including coal, heavy oil, and tar
59 sands; and

60 (c) Synthetic fuels produced in the state of Missouri;

61 (16) To insure any loan, the funds of which are to be used for the
62 development and marketing of energy resources as authorized by sections 260.005
63 to 260.125;

64 (17) To make temporary loans, with or without interest, but with such
65 security for repayment as the authority deems reasonably necessary and
66 practicable, to defray development costs of energy resource development projects;

67 (18) To collect reasonable fees and charges in connection with making and
68 servicing its loans, notes, bonds and obligations, commitments, and other
69 evidences of indebtedness made, issued or entered into to develop energy
70 resources, and in connection with providing technical, consultative and project
71 assistance services in the area of energy development. Such fees and charges
72 shall be limited to the amounts required to pay the costs of the authority,
73 including operating and administrative expenses, and reasonable allowance for
74 losses which may be incurred;

75 (19) To enter into agreements or other transactions with any federal or
76 state agency, any person and any domestic or foreign partnership, corporation,

77 association, or organization to carry out the provisions of sections 260.005 to
78 260.125;

79 (20) To sell, at public or private sale, any mortgage and any real or
80 personal property subject to that mortgage, negotiable instrument, or obligation
81 securing any loan;

82 (21) To procure insurance against any loss in connection with its property
83 in such amounts, and from such insurers, as may be necessary or desirable;

84 (22) To consent to the modification of the rate of interest, time of payment
85 for any installment of principal or interest, or any other terms, of any loan, loan
86 commitment, temporary loan, contract, or agreement made directly by the
87 authority;

88 (23) To make and publish rules and regulations concerning its lending,
89 insurance of loans, and temporary lending to defray development costs, along
90 with such other rules and regulations as are necessary to effectuate its purposes.
91 No rule or portion of a rule promulgated under the authority of sections 260.005
92 to 260.125 shall become effective unless it has been promulgated pursuant to the
93 provisions of section 536.024;

94 (24) To borrow money to carry out and effectuate its purpose in the area
95 of energy resource development and to issue its negotiable bonds or notes as
96 evidence of any such borrowing in such principal amounts and upon such terms
97 as shall be determined by the authority, and to secure such bonds or notes by the
98 pledge of revenues, mortgages, or notes of others as authorized by sections
99 260.005 to 260.125.

100 2. The authority shall develop a hazardous waste facility if the study
101 required in section 260.037 demonstrates that a facility is economically
102 feasible. The facility, which shall not include a hazardous waste landfill, may be
103 operated by any eligible party as specified in this section. The authority shall
104 begin development of the facility by July 1, 1985.

105 **3. (1) The authority shall administer an interest buy-down**
106 **program where it shall pay the difference in interest between the**
107 **normal and customary rate and three percent that is due on loans**
108 **sought by Missouri businesses for the purpose of financing energy**
109 **efficiency improvements. To be eligible to participate in the program,**
110 **a business shall meet the criteria to be qualified by the authority as an**
111 **eligible energy-saving enterprise under section 30.865 but no business**
112 **may participate in the program under this subsection and receive a**

113 reduced-rate loan under sections 30.750 to 30.767 for the same project.

114 (2) The authority shall require an energy audit as part of the
115 program under this subsection.

116 (3) The maximum total interest paid for a single project under
117 this subsection shall not exceed thirty thousand dollars.

118 (4) The authority shall promulgate rules for the provisions of
119 this subsection in accordance with its general authority to promulgate
120 rules. Any rule or portion of a rule, as that term is defined in section
121 536.010 that is created under the authority delegated in this section
122 shall become effective only if it complies with and is subject to all of
123 the provisions of chapter 536, and, if applicable, section 536.028. This
124 section and chapter 536 are nonseverable and if any of the powers
125 vested with the general assembly pursuant to chapter 536, to review, to
126 delay the effective date, or to disapprove and annul a rule are
127 subsequently held unconstitutional, then the grant of rulemaking
128 authority and any rule proposed or adopted after August 28, 2011, shall
129 be invalid and void.

Bill ✓

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